

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

IN THE MATTER OF:
EDMUND W. CHAVIS, JR.,

Debtor(s)

Case No: B-1081874 C-13D

OBJECTION BY STANDING TRUSTEE TO CONFIRMATION OF PLAN

NOW COMES Richard M. Hutson, II, Standing Trustee ("Trustee") and respectfully objects to confirmation of the Debtor's plan pursuant to 11 U.S.C. §1325 and shows unto the Court the following:

1. The Debtor filed a petition under Title 11 of the United States Code, Chapter 13, on October 14, 2010, in the United States Bankruptcy Court for the Middle District of North Carolina.
2. On October 14, 2010, Richard M. Hutson, II, was appointed as Trustee.
3. This Court has proper and personal jurisdiction of the subject matter hereof and over the parties pursuant to 28 U.S.C. §§151, 157 and 1334, and the Standing Order entered by the United States District Court for the Middle District of North Carolina and this is a core proceeding within 28 U.S.C. §157(b).
4. The petition filed by the Debtor proposes a monthly plan payment of \$2,446.00 per month for a period of 60 months. Unsecured creditors will not receive any dividend.
5. The Debtor's plan provides that the claim of Wells Fargo Bank ("Wells Fargo") representing a first deed of trust on the Debtor's real property will be paid as long-term continuing debt pursuant to 11 U.S.C. §1322(b)(5) by disbursements through the Trustee and that any arrearage will be treated as a secured claim and also paid through the Trustee's office.
6. Wells Fargo filed a claim secured by the Debtor's real property and has asserted ongoing monthly payments of \$1,398.06 and an arrearage through February of 2011 in the amount of \$49,563.71. It will require payments of \$840.00 per month to pay the arrearage claim of Wells Fargo within 60 months.
7. The Internal Revenue Service ("IRS") filed a claim secured by a tax lien on the Debtor's property in the amount of \$9,184.00, an unsecured priority claim

representing 2006 and 2009 income taxes in the amount of \$9,881.81, and a general unsecured claim in the amount of \$13,443.15.

8. The Trustee objects to confirmation of the plan in that the Debtor's proposed plan payments are not sufficient to satisfy the long-term debt of Wells Fargo, the arrearage claim of Wells Fargo, the claims of the IRS, and all other secured and priority claims within the 60 month time limitation of 11 U.S.C. §1322(d).

WHEREFORE, the Trustee prays the Court for an Order as follows:

1. That the Debtor's plan not be confirmed in that the plan does not comply with 11 U.S.C. §1325 and the case be dismissed for cause pursuant to 11 U.S.C. §1307; or
2. For such other and further relief as the Court may deem just or proper.

This the 31st day of January, 2011.

s/Benjamin E. Lovell

Benjamin E. Lovell

Attorney for the Trustee

State Bar No: 23266

P.O. Box 3613

Durham, N.C. 27702

CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the foregoing document upon John T. Orcutt, Esq., 6616-203 Six Forks Rd., Raleigh, NC 27615, Edmund W. Chavis, Jr., 6 Lost Tree Ct., Durham, NC 27703, and Michael D. West, Esq., U.S. Bankruptcy Administrator, PO Box 1828, Greensboro, NC 27402 by depositing a copy of same in the United States Mail, postage prepaid, and in the manner prescribed by Rule 5 of the Federal Rules of Civil Procedure.

This 31st day of January 2011.

s/Benjamin E. Lovell
Benjamin E. Lovell, Esq.
Attorney for the Standing Trustee